

### **REMARKS**

This Amendment is in response to the final Office Action mailed on August 11, 2009. Claim 1 is amended editorially. Claim 19 is new and is supported, for example, by the features of claim 1, and in the specification on page 14, line 5-page 15, line 4 and page 24, lines 15-26. No new matter is added. Claims 1, 4 and 7-19 are pending.

#### **§112, 1st Paragraph Rejections:**

Claims 1, 4 and 7-18 are rejected as failing to comply with the enablement requirement. Claim 1 as amended no longer contains the language that this rejection asserts fails to comply with the enablement requirement. Accordingly, withdrawal of this rejection is requested. Applicants do not concede the correctness of this rejection.

#### **§112, 2nd Paragraph Rejections:**

Claims 1, 4 and 7-18 are rejected as being indefinite. In particular, the rejection asserts that reference to “said one electrode” in claim 1 is vague and ambiguous. Applicants respectfully note that claim 1 explicitly recites “wherein one of the first and second electrodes” prior to reciting “said one electrode”. Thus, each recitation of “said one electrode” consistently refers to either only the first electrode or only the second electrode. Thus, Applicants assert that the claim language is definite and one skilled in the art would not find the use of the phrase “said one electrode” as vague or ambiguous. Withdrawal of this rejection is requested.

#### **§103 Rejections:**

Claims 1, 4, 7, 8, 12 and 18 are rejected as being unpatentable over Gotoh (US Patent No. 6,071,391) in view of Hodges (WO 2003/032411) and further in view of Heller (US Patent No. 6,143,164). This rejection is traversed.

Claim 1 is directed to a thin analysis tool that recites, among other features, that the electron release region has a thickness between said one electrode and the second plate, and said one electrode and the second plate are spaced from each other by a facing distance that is no greater than the thickness of the electron release region.

The combination of Gotoh, Hodges and Heller does not teach or suggest these features. In particular, nowhere does the combination of Gotoh, Hodges and Heller teach or suggest that said one electrode and the second plate are spaced from each other by a facing distance that is no greater than the thickness of the electron release region.

Gotoh does not teach these features of claim 1. First, Gotoh is silent regarding an electron release region. However, even if Gotoh teaches an electron release region, Gotoh would likely have to provide both an electron release region and a non-electron release region between one of the electrodes and the plate facing the electrode, due to the distance between the plates 1 and 1' being between 100-500  $\mu\text{m}$  (see column 7, lines 24-32 of Gotoh). Thus, Gotoh at a minimum is silent on these features, and based on the distance range of 100-500  $\mu\text{m}$  between plates 1 and 1', more likely teaches away from a facing distance that is no greater than the thickness of the electron release region.

Hodges does not overcome these deficiencies of Gotoh. Hodges merely teaches a spacing between two opposing electrodes 32 and 34 or 52 and 54 (see page 7, lines 28-36, page 11, lines 11-19 and Figures 1 and 2 of Hodges). However, Hodges is silent as to a thickness of the electron release region above the electrode 32. Thus, Hodges also is silent as to a facing distance that is no greater than the thickness of the electron release region, as recited in claim 1.

Heller also does not overcome the deficiencies of Gotoh and Hodges. The rejection relies on column 10, lines 38-54 of Heller for teaching a reaction space that is no greater than 45 $\mu\text{m}$ . However, this portion of Heller is directed to the diffusion of an analyte into the measurement zone. Heller is also silent as to an electron release region. Thus, Heller also cannot teach or suggest a facing distance that is no greater than the thickness of the electron release region, as recited in claim 1.

For at least these reasons claim 1 is not suggested by the combination of Gotoh, Hodges and Heller and should be allowed. Claims 4, 7, 8, 12 and 18 depend from claim 1 and should be allowed for at least the same reasons.

Claim 9 is rejected as being unpatentable over Gotoh in view of Hodges in view of Heller and further in view of Leong (US Patent No. 6,837,988). This rejection is

traversed. Claim 9 depends from claim 1 and should be allowed for at least the same reasons described above. Applicant does not concede the correctness of this rejection.

Claims 10, 11 and 13-17 are rejected as being unpatentable over Gotoh in view of Hodges in view of Heller and further in view of Nagakawa (WO 03/025558 and English equivalent US Patent No. 7,390,391). This rejection is traversed. Claim 7 depends from claim 1 and should be allowed for at least the same reasons described above. Applicant does not concede the correctness of this rejection.

New Claim 19:

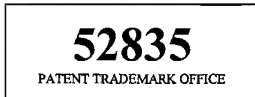
In order to expedite the prosecution of this matter, the following is noted with respect to new claim 19 as it relates to the cited prior art.

Claim 19 is directed to a thin analysis tool that recites, among other features, said one electrode and the second plate being spaced from each other by a facing distance that is no greater than the thickness of the electron release region for causing diffusion of the electron transport mediator into the electron release region only from sides of the electron release region.

As discussed above, with respect to claim 1, Gotoh, Hodges or Heller, either alone or in combination, do not teach or suggest a facing distance that is no greater than the thickness of the electron release region. For at least these reasons the combination of Gotoh, Hodges and Heller also does not teach or suggest a facing distance that is no greater than the thickness of the electron release region for causing diffusion of the electron transport mediator into the electron release region only from sides of the electron release region, as recited in claim 19. For at least these reasons, claim 19 is not suggested by the combination of Gotoh, Hodges and Heller and should be allowed.

Conclusion:

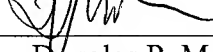
Applicant respectfully asserts that the pending claims are in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's primary attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.



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Respectfully submitted,

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